

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

MICHAEL KELLY,)	
)	
Plaintiff,)	
)	
)	
v.)	No. 22-cv-2190
)	
NEXAIR, LLC,)	
)	
Defendant.)	
)	

ORDER GRANTING MOTION TO BIFURCATE TRIAL

Before the Court is Defendant NEXAIR, LLC's ("nexAir") July 17, 2023 Unopposed Motion to Bifurcate. (ECF No. 59.) Plaintiff Michael Kelly is suing nexAir for injuries incurred at nexAir's warehouse and allegedly caused by a nexAir employee's improper operation of a forklift. (ECF No. 1 at 4-6.) In addition to other relief, Plaintiff seeks punitive damages for nexAir's allegedly reckless and wanton conduct. (Id. at 13.) Defendant moves to bifurcate the trial so that a decision on the amount of punitive damages -- a matter for which the jury would consider otherwise inadmissible evidence about Defendant's financial health and net worth -- will be made only after a decision is reached on liability and the amount of compensatory damages. (ECF No. 59 at 2-3.)

Under Federal Rule of Civil Procedure 42, this Court has discretion to order “a separate trial of one or more separate issues,” whether “[f]or convenience, to avoid prejudice, or to expedite and economize.” Under Tennessee law, state courts are required to bifurcate a trial where there is a claim for punitive damages. Hudson, Holeyfield & Banks, G.P. v. MNR Hosp., LLC, No. W2019-00123-COA-R3-CV, 2020 Tenn. App. LEXIS 358, at *27-28, *34 (Ct. App. Aug. 7, 2020) (citing Tenn. Code Ann. § 29-39-104). The second phase of the bifurcated trial occurs immediately after the first phase using the same jury. Id. at *27-28, *34-35. Federal courts applying Tennessee law in diversity have regularly bifurcated trials to address the amount of punitive damages separately. VJ, LLC v. State Auto Prop. & Cas. Ins. Co., No. 14-2919, 2016 U.S. Dist. LEXIS 187739, at *41-42 (W.D. Tenn. Aug. 3, 2016) (collecting cases). Doing so prevents the jury, at the liability and compensatory damages phase, from being confused or prejudiced by irrelevant information about a defendant’s financial affairs. See id. at *41.

For the foregoing reasons, nexAir’s Unopposed Motion to Bifurcate, ECF No. 59, is GRANTED. Should it become necessary for the jury to decide an amount of punitive damages, the jury

will do so in a separate proceeding immediately following the determination on liability and compensatory damages.¹

SO ORDERED this 2d day of August, 2023.

/s/ Samuel H. Mays, Jr.
SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE

¹ Pending before the Court is nexAir's Motion for Partial Summary Judgment on Plaintiff's punitive damages claim. (ECF No. 50.) Briefing on that motion is not yet complete. (See ECF Nos. 50, 62.) The disposition of the instant Motion is not a ruling on the motion for partial summary judgment and should not be interpreted as intimating any particular view on the merits of that motion.